

Remarks

Status of the Claims

Claims 1-25 are pending in the application. Claims 1-9 and 24-25 are currently amended. New matter is not being added to the application by way of this amendment. The amendment to claims 1 and 24 are supported at page 26, lines 14-19 of the specification. Accordingly, no new matter is added and entry of this amendment is respectfully requested.

Restriction/Election

The Examiner has required restriction between the inventions of Groups I-X.

For the purpose of examination of the present application, applicants elect Group II, claims 1-24 drawn to products of formula (I) wherein A is thiophene; R¹ is thiophene; R² is an alkyl group substituted with a carboxy group; and R³ is a substituted or unsubstituted pyridyl or pyrimidinyl group, with traverse.

Claims 1-9 and 24 to 25 are method of use claims that use compositions with an active ingredient that has a large conductance calcium-activated K channel opening activity. The aforementioned calcium-activated K channel opening activity is a special technical feature of the present application. The reference asserted by the Examiner in the Office Action at page 6, (Katz et al., STN International, HCAPLUS Database, Columbus, OH Accession No. 2002:115753, Reg. No. 83495-30-1(2007), relates to an organic semiconductor and does not disclose the above-mentioned special technical feature of the present invention. The present claims therefore do show a contribution over the prior art based on the special technical feature described above.

The above-cited reference does not show that the present claims fail to define a contribution over the prior art.

In addition, with regard to the Examiner's comments at page 6, last paragraph, and page 7, applicants respectfully remind the Examiner that under Unity of Invention rules, in addition to an independent claim for a product, applicants are also entitled to examination of an independent claim for a use of the said product. See MPEP §1850. Accordingly, the Examiner has not demonstrated that the present claims lack unity of invention and the outstanding restriction requirement must be withdrawn.

The Examiner is also reminded that the mere fact that the claims are broad, in the Examiner's opinion, is not a justification in itself for restriction. In fact, the Patent Office routinely examines, and issues patents, directed to chemical genus claims that are as broad as the present claims. See e.g., U.S. 7,205,403; and U.S. 7,094,895. In the present application, claims directed to methods of prophylaxis or treatment of a disease using a particularly defined class of chemical compounds are presented. Applicants respectfully submit that the Examiner has provided no justification for the present restriction, other than there are a supposedly large number of variables in the disclosed formulas. See MPEP §803 ("Examiners must provide reasons and/or examples to support conclusions....").

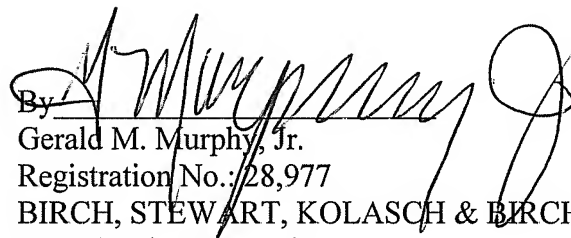
Applicants respectfully submit that having a large number of variables in chemical genus claims is common practice in the chemical arts. The Examiner's restriction to such a large number of inventions in this case is inappropriate and must be withdrawn. Applicants respectfully submit that a species election would be more appropriate in this application. MPEP §806.04.

Conclusion

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

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Respectfully submitted,


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